

*****DRAFT - DO NOT CITE OR QUOTE *****

Recommendations of the Cal/EPA Environmental Justice Advisory Committee
to
the Cal/EPA Interagency Working Group on Environmental Justice

draft date: ~~May 23~~ June 18, 2003

I. ~~Environmental Justice in California~~ Introduction

This report has been prepared by the California Environmental Protection Agency's ~~Advisory Committee on Environmental Justice~~ Environmental Justice Advisory Committee. The report covers specific areas in response to legislative mandate. More importantly, this report reflects the collective judgment of the Committee about the steps needed to make Environmental Justice a reality for all Californians.

The ~~Advisory Committee on Environmental Justice~~ Environmental Justice Advisory Committee fully supports the goal of Environmental Justice, as defined in state law, for all Californians. The Committee recognizes that this goal has not yet been reached. There are still gaps in data, and tools that need to be developed, but the Committee believes that there are also steps that can be taken now. This report outlines many things that can and should be done to achieve the goal of Environmental Justice. The Committee fully endorses the use of good science, and robust and meaningful participation by the public in environmental decision-making; at the same time we do not want our recommendations for developing data and tools to result in delays in implementing those steps that can clearly be taken right away. To that end, the Committee's report also includes timelines and next steps, and above all, accountability for implementing these recommendations.

Note to Committee #1: In its present form, the report does NOT include timelines or next steps. In order to make sure that general development of data & tools does not delay action on those things we believe can and should be done now, the Committee has to identify which action items are immediate, and which depend on additional data and/or tools.

The Environmental Justice movement is deeply rooted in civil rights, and the struggles of people who have historically been marginalized. In their fight to be treated fairly and accorded equal protection under all of our nation's laws, they have demanded equal protection of their health and environment. In particular, the Environmental Justice movement has been championed by people of color, Native American tribes, farmworkers, and low-income communities. The movement has been characterized by passionate debate, and many different views; although this report does not completely set out the scope of these views, we must acknowledge their importance in shaping public policy. As background, a general history of the movement is provided. A more detailed summary** is appended to the report, as is a list of additional references. What this report does show, however, is that Environmental Justice is of great

importance to the people of California and has become a fundamental goal for the state's environmental programs.

~~California law defines "Environmental Justice" to mean: "The fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies" (Government Code Section 65040.12).~~

***Note to Committee #2: The "summary" referred to here is a placeholder - the Committee has not discussed this item, nor decided what, if any, summary would be attached. Still needed, as of 6/18/03.*

Environmental Justice first gained national prominence through a protest against the proposed siting of a landfill for polychlorinated biphenyls (PCBs) in a predominately African-American county in North Carolina. The phrase "environmental racism" was used to refer to policies and activities that, either intentionally or unintentionally, result in the disproportionate exposure of people of color to environmental hazards. A 1983 study published by the U.S. General Accounting Office (GAO) found that in the southeastern United States, three of four commercial hazardous waste landfills were in communities with more African Americans than whites. The United Church of Christ Commission for Racial Justice expanded the 1983 GAO study to the national level and found similar results. A total of 45 studies conducted by various investigators between ~~1976-1967~~ and 1993 examined the role of race and income level in exposure to environmental hazards, and found disparate impacts in the great majority of cases studied (87 percent and 74 percent, respectively; see Appendices F and I for references)**.

*~~**Note to Committee #3: Cal EPA staff have not yet fully reviewed the referenced material, nor has the Committee been provided with these studies; the figures cited were taken from a separate report prepared for Cal EPA by an intern and should be verified prior to finalizing this report. Romel has agreed to do this: reviewed the article from which the statistics above were taken; a copy of the article will be provided to Committee Members with materials for the June 18 & 19 meeting. The Committee needs to decide if the article should be cited without further verification, or if independent verification of the statistics is needed. The Committee also needs to decide what, if any, of the materials should be included in the appendices - note that the actual appendices referenced above may change once the entire set of materials is compiled. Still Action needed, as of 3/186/18/03.~~*

In October of 1991, advocates attending the First National People of Color Environmental Leadership Summit drafted a statement called "Principles of Environmental Justice." These Principles articulated broad goals for communities and environmental justice. They asserted that all people have a fundamental right to clean air, water, land, and food. They called for policy based on mutual respect, free from discrimination or bias. They affirmed communities' right to self-determination, and to participate as partners in every level of decision-making, including needs assessment, planning, implementation, enforcement, and evaluation. Finally, the

principles expanded the concept of “environment” beyond ecological and natural systems, to include places where people live, work, play, and go to school.

In 1994, a newly inaugurated President Clinton issued Executive Order 12898: “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.” The executive order requires that all federal agencies incorporate environmental justice into their missions. Specifically, federal agencies are required to address situations where their programs, policies, or activities result in adverse health or environmental impacts that are disproportionately high and adverse in low income communities or communities of color.

Note to Committee#4: the Subcommittee requested verification of the next three sentences. ~~Still needed, as of 3/18/03.~~ Counsel to the Committee indicated that legislation had not been passed. Discussion pointed to some of the following points being covered in the letter that accompanied the order; ~~the Committee requested a copy of the letter and that the letter be included in the appendices.~~ Cal/EPA staff provided a copy of the order and the cover letter with the materials for the April 21st meeting. The Committee needs to review the order and the letter, and determine if the summary is accurate. Action needed as of 6/18/03.

The order is binding on all federal agencies. Some of the specific steps agencies were directed to take include enhanced public participation in federal assessments of potential environmental impacts from proposed projects, and increased public access to environmental information, documents, and meetings. Agencies were also directed to analyze the effects of permitting decisions on low income communities and communities of color, and to apply the non-discrimination requirement of Title VI of the 1964 Civil Rights Act to environmental decision-making.

There is an important aspect of Environmental Justice that has been more fully articulated, and more consistently implemented, at the federal level than in California. It involves Environmental Justice as it relates to Native American tribes. The federal government holds a “trust responsibility” with tribes that “requires the federal government consider the best interests of the Tribes in its dealings with them and when taking actions that may affect them. The trust responsibility includes protection of the sovereignty of each Tribal government” (for references and further discussion, see Appendix G: Environmental Justice and Tribes). The federal government also has a consistent policy of conducting its relationships with Tribes on a government-to-government basis. This has not always been the case in relationships between Tribes and states, including the State of California. The central point of contention is the limited (or complete lack of) applicability of state law on tribal lands. As a result, there are a number of issues that further complicate Environmental Justice for Native American Tribes in California. These issues include, but are not limited to, the need for clearer definition of and limits on sovereignty, the impacts of the delegation of federal authority, cross-border impacts between Tribal and non-tribal lands, differences between Tribal, federal and state standards and environmental programs, and the handling of socioeconomic impacts.

California law defines “Environmental Justice” to mean: “The fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies” (Government Code Section 65040.12).

~~Note to Committee: This summary is extracted from the discussion paper provided to the Committee for the meeting on 1/10/03. The Committee needs to decide if an Appendix is needed (as referenced above), and if so, if the discussion piece should be the basis for it or if some other piece should be prepared. Still needed as of 3/18/03~~

Environmental Justice became part of California’s laws through legislation enacted between 1999 and 2001. The term “environmental justice” was formally defined when Governor Davis signed Senate Bill 115, authored by Senator Hilda Solis, in 1999. This bill designated the Office of Planning and Research (OPR) as the agency charged with coordinating the state’s efforts for environmental justice programs. It also required the California Environmental Protection Agency to take specific actions in designing its mission for programs, policies, and standards within the Agency. In 2000, Governor Davis included a specific appropriation to Cal/EPA for its environmental justice program, and also signed Senate Bill 89, authored by Senator Martha Escutia. SB 89 established a procedural framework for pursuing environmental justice, and created the Interagency Working Group on Environmental Justice, which includes the heads of Cal/EPAs Boards, Departments, and Office, and the Director of the Office of Planning and Research. SB 89 also created the Advisory Group-Committee on Environmental Justice, made up of external stakeholders, to assist the Working Group in developing a strategy to identify and address environmental justice gaps in Cal/EPA programs (additional details are provided in Section II, Legislative Mandate). Senate Bill 828 (Alarcon, 2001) established a deadline for the Cal/EPA Boards, Departments and Office to identify and address gaps in their programs that may impede the achievement of environmental justice. Finally, Assembly Bill 1553 (Keeley, 2001) required the Office of Planning and Research to establish guidelines for incorporating environmental justice into the general plans adopted by cities and counties. Additional information about these bills, and the agencies they affect is discussed in the next section of this report.

~~This report has been prepared by the California Environmental Protection Agency’s Advisory Committee on Environmental Justice. The report covers specific areas in response to legislative mandate. More importantly, this report reflects the collective judgement of the Committee about the steps needed to make Environmental Justice a reality for all Californians.~~

~~The Advisory Committee on Environmental Justice fully supports the goal of Environmental Justice, as defined in state law, for all Californians. The Committee recognizes that this goal has not yet been reached. There are still gaps in data, and tools that need to be developed, but the Committee believes that there are also steps that can be taken now. This report outlines many things that can and should be done to achieve the goal of Environmental Justice. The Committee fully endorses the use of good science, and robust and meaningful participation by the public in environmental decision making; at the same time we do not want our recommendations for developing data and tools to result in delays in implementing those steps that can clearly be taken right away. To that end, the Committee’s report also includes timelines and next steps, and above all, accountability for implementing these recommendations.~~

~~Note to Committee: The preceding paragraph is a first crack at an "Issue Statement" and reflects the flavor of the discussion at the meeting on 1/10/03. The Committee still needs to decide if this is an appropriate statement, as of 3/18/03.~~

II. Legislative Mandate

In California, legislation on environmental justice has mandates focused on four entities: Cal/EPA, OPR, the Interagency Working Group, and the Advisory Committee. Cal/EPA is the umbrella agency that oversees all of the state's environmental agencies, also known as its Boards, Departments, and Office. These agencies make environmental decisions for the state, and must ensure environmental justice in their decision-making. The agency that has the overarching responsibility for coordinating environmental justice programs for all state agencies, however, is the Office of Planning and Research, or OPR. The Director of OPR, the Secretary of Cal/EPA, and the heads of the Cal/EPA Boards, Departments, and Office, sit together on the Interagency Working Group on Environmental Justice; this working group must create a strategy to identify and address environmental justice gaps within their respective programs. In order to assure active and balanced participation by affected stakeholders outside of these agencies, the Legislature also established the Cal/EPA ~~Advisory Committee on Environmental Justice~~Environmental Justice Advisory Committee. This Report was prepared by the Advisory Committee in response to a specific legislative mandate. It also includes recommendations that go beyond the specific mandate, that the Advisory Committee felt were important to bring forward. This section of the report provides a brief description of the four entities mentioned above, and their specific mandates on Environmental Justice. Please refer to Appendix H for more complete information about California State law on Environmental Justice.

The Cal/EPA Boards, Departments, and Office (BDOs): The California Environmental Protection Agency, or Cal/EPA coordinates the activities of six environmental Boards, Departments, and Office, including the Air Resources Board, the Department of Toxic Substance Control, the Integrated Waste Management Board, the Department of Pesticide Regulation, the Office of Environmental Health Hazard Assessment, and the Water Resources Control Board. The mission of Cal/EPA is "To improve environmental quality in order to protect public health, the welfare of our citizens, and California's natural resources. Cal/EPA will achieve its mission in an equitable, efficient, and cost-effective manner." The agency has historically focused on multi-media coordination. It is now responsible for taking specific actions to achieve Environmental Justice in California.

Senate Bill 115 (Solis, 1999) requires the agency to conduct its programs and promote enforcement in a manner that "ensures fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state," and develop a model mission statement on Environmental Justice. It also directs Cal/EPA to ensure greater public participation in the development, adoption, and implementation of its environmental regulations and policies, promote enforcement, improve research, and identify differential patterns of consumption of natural resources between different socio-economic groups.

Senate Bill 89 (Escutia, 2000) charges the Secretary of Cal/EPA to convene a working group (see below) to assist the agency in developing “an agencywide strategy for identifying and addressing gaps in existing programs, policies, or activities that may impede the achievement of environmental justices.” SB 89 also directs the Secretary to convene an advisory group of external stakeholders (see below) to assist the agency and the working group in developing the agency’s strategy.

Senate Bill 828 (Alarcon, 2001) requires each Cal/EPA BDO to review its programs, policies, and activities to identify and address gaps that may impede the achievement of environmental justice. The Bill also established statutory deadlines for the completion of specific actions under SB 89.

These bills have been incorporated into California law in Government Code, Section 65040.12 (Title 7, Division 1, Chapter 1.5, Article 4), and Public Resources Code, Sections 71110-71116 (Division 34, Part 3). Please refer to Appendix H for more complete information about California State law on Environmental Justice

Cal/EPA’s six Boards, Departments, and Office, and their mission statements, are described below:

The Air Resources Board (ARB): The ARB oversees activities of 35 local and regional air pollution control districts. Districts regulate industrial pollution sources, issue permits, and ensure industries adhere to air quality mandates. The ARB also has primary responsibility for regulating emissions from mobile sources in California, the largest emissions sector, as well as consumer products. Its mission statement is “To promote and protect public health, welfare and ecological resources through the effective and efficient reduction of air pollutants ~~in~~ while recognition-recognizing and consideration-considering of the effects on the economy of the state.”

The Department of Toxic Substances Control (DTSC): DTSC regulates hazardous waste facilities. It also oversees the cleanup of hazardous waste sites and ensures that state and federal requirements for managing hazardous wastes are implemented. Its mission statement is “~~To protect public and the environment from harmful exposure to hazardous substances, without unnecessarily impacting sustainable growth and development~~ To restore, protect and enhance the environment, to ensure public health, environmental quality and economic vitality, by regulating hazardous waste, conducting and overseeing cleanups, and developing and promoting pollution prevention.”

The Integrated Waste Management Board (IWMB): The IWMB promotes achievement of waste diversion mandates by local jurisdictions (cities and counties). It fosters markets for recovered recyclables, and enforces legal provisions to protect the environment and public’s health and safety. Its mission statement is “To reduce waste, promote the management of all materials to their highest and best use, and protect public health and safety and the environment, in partnership with all Californians.”

The Department of Pesticide Regulation (DPR): DPR regulates pesticide sales and use, and fosters reduced-risk pest management. The Department also oversees product evaluation/registration, environmental monitoring, and residue testing of fresh produce. It also oversees local use enforcement through the county agricultural commissioners. Its mission is “To protect human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management.”

The Office of Environmental Health Hazard Assessment (OEHHA): OEHHA ~~identifies and determines levels of chemicals that cause cancer and reproductive harms responsible for developing and providing risk managers in the state and local government agencies with toxicological and medical information relevant to decisions involving health.~~ OEHHA also works with federal agencies, the scientific community, industry and the general public on issues of environmental as well as public health. Its mission statement is “To protect and enhance public health and the environment by objective scientific evaluation of risks posed by hazardous substances.”

Note to Committee #5: The Committee requested an updated description of OEHHA (and any other BDO whose responsibilities have changed since we were provided with descriptions of their programs in January 2002. Any updates will be incorporated when received. This is still needed, as of 3/18 Cal/EPA staff provided updated language, which was incorporated into the June 18, 2003 draft.

The State Water Resources Control Board (SWRCB): The Board allocates water rights and arbitrates water right disputes. It develops statewide water protection plans, establishes water quality standards, and guides the nine Regional Quality Control Boards. Its mission statement is “To preserve and enhance the quality of California’s water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.”

The heads of each of the Boards, Departments, and Office are required to participate in the Cal/EPA Interagency Working Group (see below) under SB 89. They are also required by SB 828 to implement the strategy developed in consultation with the Interagency Working Group and the Cal/EPA Advisory Committee (see below).

The Office of Planning and Research: The Office of Planning and Research (OPR) is established as the coordinating agency in state government for Environmental Justice programs, under SB 115, in Government Code § 65040.12(c). OPR holds one-day workshops to teach state agency personnel about environmental justice, its statutory underpinnings, and how to address environmental justice issues that may arise in their work. The Office may provide more detailed and specialized training at a later date for interested state personnel who have completed the basic training. SB 89 requires the Director of OPR to sit on the Interagency Working Group, along with the heads of the Cal/EPA Boards, Departments, and Office. It also requires the Director to consult with the Secretary of Cal/EPA, the Resources Agency, the Trade and Commerce Agency, the Business, Transportation and Housing Agency, and the Cal/EPA Interagency Working Group on Environmental Justice, and any other appropriate state agencies, and all other interested members of the public and private sectors of the state. The Director must coordinate the Office’s efforts and share information, and review and evaluate information from

federal agencies relevant to environmental justice. AB 1553 (Keeley, 2001) requires OPR to develop guidance for ~~local land use planning agencies~~ cities and counties to incorporate environmental justice into their General Plans. At the time of this report, ~~[OPR has developed and circulated a draft guidance document for public review and comment]~~ To be updated with the current status of the OPR process, including a discussion of the fact that the EJ Guidelines are advisory, not mandatory for the cities and counties].

The Cal/EPA Interagency Working Group: The Cal/EPA Interagency Working Group is made up of the Secretary of Cal/EPA, the heads of its Boards, Departments and Office, and the Director of OPR. Under SB 89, the Working Group is required to examine existing data and studies on environmental justice and coordinate with other governmental agencies, and community groups. It is directed to recommend criteria to the Secretary of Cal/EPA for identifying and addressing any gaps in existing programs, policies, or activities that may impede achievement of environmental justice. It must recommend procedures and guidance to Cal/EPA for coordination and implementation of environmental justice, and for data collection, analysis, and coordination. It must also recommend procedures to ensure that public documents, notices, and hearings are concise, understandable, and readily accessible, and provide guidance for determining when it is appropriate for Cal/EPA to translate crucial documents, notices, and hearings for limited-English-speaking populations. The Working Group is also required to hold public meetings and take public comments on their proposed recommendations.

The Cal/EPA ~~Advisory Committee on Environmental Justice~~ Environmental Justice Advisory Committee: The Cal/EPA ~~Advisory Committee on Environmental Justice~~ Environmental Justice Advisory Committee was established in December, 2001, in response to Senate Bill 89 (Escutia, 2000). The membership and mission of the Committee is set out the Public Resources Code § 71114. The Committee was originally created with thirteen members from specific sectors of external stakeholders. These thirteen members include: two representatives of local or regional land use planning agencies; two representatives from air districts; two representatives from certified unified program agencies (CUPAs); two representatives from environmental organizations; three business representatives (two from large and one from small business); and two representatives from community organizations. One of the first actions taken by the Committee, in response to valid concerns from the public, was to vote to support legislation to expand the representation on the Committee. In particular, numerous public complaints were made that the Committee did not include representation from African American community groups and Native American tribes, nor did the community/environmental group membership reflect a good geographic representation of the state. The legislation (Senate Bill 1542, Escutia) which was supported by the Committee, was signed by Governor Davis in September, 2002. Under this bill, four members were added to the Committee, which now includes seventeen members. The four new members include two additional representatives from community groups (both of whom represent African American communities), one representative of Native American tribes, and one additional representative of small businesses. The new members also bring greater geographic diversity to the Committee.

Under Senate Bill 89, the Committee is mandated to assist Cal/EPA and the Interagency Working Group “by providing recommendations and information to, and serving as a resource for” them as they carry out their Environmental Justice mandates (Public Resources Code §

71114(a)).

III. Purpose and Summary of Recommendations

Note to Committee#6: This section has NOT been revised to reflect Committee discussions on March 18, 2003, or subsequent edits to Section V that resulted from those discussions. This section will be revised once the Committee finalizes the recommendations in Section V for release for public comment.

The Committee's recommendations are being made to the Secretary of Cal/EPA and the Interagency Working Group, in response to the specific mandate to the Committee under SB 89. In formulating these recommendations, the Committee sought and received extensive public input. As an outgrowth of the process, the Committee has identified ways to further the goal of Environmental Justice that go beyond those areas specifically outlined in SB 89. These recommendations are intended to assist Cal/EPA and Interagency Working Group as they develop their strategy to achieve Environmental Justice in California. The Committee has also made recommendations to entities outside the Cal/EPA umbrella that the Committee feels have an important role in achieving Environmental Justice, especially if their actions will affect the success of Cal/EPA's strategy.

The Committee reviewed the charge to the Interagency Working Group in SB 89, as detailed in Section 71113 of the Public Resources Code. The Working Group is charged to do six essential things (described in Section II, above). The Committee's recommendations respond to this mandate as follows:

Note to Committee Members: This summary now reflects the recommendations as revised following the Committee meeting on 1/10/03. NOTHING has been updated to reflect the changes from the 1/21/03 meeting. The last three sections of the report are treated cursorily, because they still have no substance. As before, this summary will change to reflect Committee changes to the body of the recommendations.

Examine existing data and studies on Environmental Justice, and consult with other agencies and affected communities. In reviewing existing knowledge about Environmental Justice, the Committee has engaged in an extensive public process. Community members provide a wealth of knowledge about the effectiveness of agency efforts to ensure Environmental Justice. The Committee has undertaken only a limited review of existing data and studies. By virtue of its membership, however, and the public process it has undertaken, the Committee has also consulted with other agencies. Section IV of this report details the process undertaken and comments received, in order to help the Working Group accomplish this legislative charge.

Recommend procedures to ensure that public documents, notices, and hearings are concise, understandable, and readily accessible to the public, and provide guidance on when it is appropriate to provide translation for limited-English speakers. The recommendations of Section V, Goal #1 are intended to help the Working Group accomplish this legislative charge.

The Committee considered public participation in a broader context, believing it is a crucial part of achieving Environmental Justice, and listed criteria that identify successful and unsuccessful programs in public participation. Specific guidance is provided to enhance the availability of information and the effectiveness of efforts to increase public participation in agency decision-making processes. Guidance is also provided on other aspects of meaningful public participation, and largely responds to the input received from community members. Due to time constraints and the number of significant issues considered by the Committee, the Committee was not able to provide guidance on when it is appropriate to provide translation.

Recommend criteria for identifying and addressing any Environmental Justice gaps in existing programs, policies, or activities. The recommendations under Section V, Goal #2 are intended to help the Working Group accomplish this legislative charge. The Committee has not discussed criteria in any systematic way. Instead, the Committee has listed the general criteria that identify program elements that successfully incorporate Environmental Justice. The Committee has also provided recommendations about specific program areas, in response to the issues raised in the public comment process.

Note to Committee: This is a revised summary of the Criteria issue and reflects changes to that part of Section V. The Committee has not concluded its discussion of criteria setting, and needs to come to some conclusions about this issue. Please see the notes in Section V for further clarification. Still an issue as of 3/18/03.

Recommend procedures for data collection, analysis, and coordination, relative to Environmental Justice. The recommendations under Section V, Goal #3 are intended to help the Working Group accomplish this legislative charge. The Committee has provided recommendations in these areas, and has included an additional areas based on public input. Community groups were anxious to play a broader role in studies that involve their communities. They are seeking opportunities and support for community-based research (discussed in more detail later), and the Committee has included recommendations addressing this issue. We note, however, that some commenters expressed hope that Cal/EPA would avoid using research and data gathering to delay acting on issues that require immediate attention.

Recommend procedures and guidance for the coordination and implementation of intra-agency Environmental Justice strategies. The recommendations under Section V, Goal #4 are intended to help the Working Group accomplish this legislative charge. The Committee has provided recommendations for intra-agency coordination, but felt some additional areas were pertinent to this carrying out this charge. Specifically, the Committee has also included recommendations for better coordination with agencies outside of Cal/EPA, and also for making sure Cal/EPA and its Boards, Departments, and Office are accountable to the public for strategy they ultimately develop to address Environmental Justice.

The Committee's recommendations for entities outside of Cal/EPA are organized by entity under Section VII, Other Recommendations. They are provided in the spirit of better communication and coordination, and in hope that they will help achieve Environmental Justice for all Californians. Additional materials that will help the reader understand and use this report to

further the goal of Environmental Justice are provided in Section VIII, Background Materials and References.

In general, the recommendations of this Committee reflect its commitment to sound science and robust public participation. In fact, the theme of meaningful public participation is central throughout all of the recommendations. At the same time, the Committee believes that pursuit of data, tools, and better processes should not prevent an agency from taking steps in the near term to address known Environmental Justice problems. To this end, the Committee has made a special effort to identify actions that can be taken quickly, and has included recommended next steps and timelines to enhance accountability.

Note to Committee: This is a rough stab at a “Summary of how Recommendations Respond to Committee’s Issue Statement” and is based on the draft issue statement included in this latest version of the document. It will change in response to Committee revisions to the issue statement.

IV. Summary of Public Participation and Comments Received

Background: The Advisory Committee completely supports the importance of full and meaningful public participation in environmental decision-making processes. In keeping with this belief, the Committee provided extensive opportunities for the public to engage the Committee in discussions about the development of these recommendations, and about Environmental Justice in general.

- All Committee meetings are public meetings and include at least one public comment period.
- Many Committee meetings have included more than one opportunity for public comment, and the first few Committee meetings were almost entirely devoted to public comment.
- Committee meetings have been held in a number of different locations to allow broader public participation. Although more recent budget constraints have limited the Committee’s ability to travel throughout the state, meetings are taped and conference call and online access to meetings have been provided.
- Meeting notices have been made provided in multiple languages and interpreters have been made available at the meetings.
- Information about this process has been available on the Cal/EPA website, in writing, and by email.
- Comments on the draft recommendations, and Environmental Justice issues in general have been received through oral testimony and written correspondence (including electronic correspondence).

Draft EJ Strategy Framework: The process of preparing these recommendations began with a “white paper” document prepared by Cal/EPA staff. The document was framed as a draft strategy for achieving Environmental Justice Goals; it included four key elements, each with more specific objectives and possible action items to implement the elements. The four elements were drafted as follows:

- **Element #1:** Ensure environmental justice is integrated into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
- **Element #2:** Ensure meaningful public participation and promote community capacity building to allow communities to be effective participants in environmental decision-making processes.
- **Element #3:** Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.
- **Element #4:** Ensure effective cross-media coordination and accountability in addressing environmental justice issues.

The Advisory Committee reviewed the draft framework elements, and then Cal/EPA staff used the draft framework to guide public discussion at a series of five workshops held throughout the state. Workshops were held in Oakland, Monterey, Fresno, Los Angeles, and San Diego, during the month of September 2002. Cal/EPA staff conducted extensive community outreach in advance of each workshop, including mail-outs, email announcements, personal communications, and posting on the Cal/EPA website. Materials were available in English and Spanish. A combined total of roughly 200 people participated at the five locations, including participation by Committee Members.

At each of the workshops, Cal/EPA staff reviewed recent legislation on Environmental Justice in California, as well as the structure and role of Cal/EPA as an environmental agency, and specifically in regard to Environmental Justice. The draft EJ Strategy Framework was presented, including objectives and potential action items, and public input was sought. During the facilitated discussion, participants were encouraged to articulate concerns and perspectives and respond to the draft EJ Strategy Framework. Participants made comments to support, revise, or object to the Elements, recommended additional objectives or potential action items, and provided examples that illustrated problems or clarified interpretations of the Framework document. Each workshop was tape recorded and summarized, and subsequent written comments were encouraged.

Using the public input from the workshops, Cal/EPA staff revised and expanded the draft EJ Strategy Framework, incorporating additional objectives and actions, as well as observations and examples identified by the public.

Draft Recommendations Report: The revised draft EJ Strategy Framework document was discussed by the Committee at a public meeting in November, 2002, and formed the starting point for the Committee's deliberations and the recommendations in this report. At the November meeting, the Committee identified the basic structure and general content for this report, and established a subcommittee to undertake the actual drafting of the document. Over the subsequent six months, the Drafting Subcommittee prepared draft language in sections for the Committee to discuss and the public to comment on at Committee meetings, and then incorporated changes to the document based on those discussions and comment.

Summary of Public Comments: During the roughly 18-month period that the Committee met to develop these recommendations, a wide range of issues has been identified by members of the public. A very brief summary of some of the concerns most frequently heard includes the following:

- The individual authorities, roles, and responsibilities of the different environmental agencies at the federal, state, and local level are very difficult for members of the public to sort out, and at times appear to be unclear to the agencies themselves.
- Environmental agencies have a long history of failing to engage community members in a meaningful way in the decisions being made that affect the community.
- There is a gap in authority/accountability when Environmental Justice problems arise because of federal facilities, and this needs to be addressed.
- How much authority does Cal/EPA have to really address Environmental Justice problems, and is this just another paperwork exercise?
- The business community needs agencies to approach environmental regulation in a systematic way, with clear criteria for requiring action that are consistently and fairly applied.
- Careful land-use and zoning decisions are the foundation for ensuring Environmental Justice goals are achieved.
- Existing environmental programs (such as CEQA) have failed to provide community members with the degree of environmental protection they desire.
- The legislative mandate for Cal/EPA to address Environmental Justice has very specific language, especially concerning criteria and gaps, that should not be ignored.
- Community members want greater control over their communities, and decisions that affect them.
- Workers and organized labor groups do not want environmental protections to be implemented in a way that threatens jobs.
- Local governments need the flexibility to prioritize efforts in response to local needs, in order to maximize limited resources.
- Community members believe project proponents (i.e., industry) should have to prove that a proposed project is safe before the project could be approved.
- The business community wants environmental decisions to be based on sound science and careful cost-benefit analysis.
- Community members do not believe that environmental agencies provide adequate enforcement of existing laws, regulations, and requirements, or that they respond adequately to community complaints.
- Local governments have great concern about new mandates that do not have associated funding.
- Farmworkers need better protection from pesticide exposure for themselves and their families, both in the field and in the communities surrounding the fields, and especially at schools.
- Agencies need to do a better job of assessing cumulative impacts on communities.
- Regardless of data needs and the lack of tools for sophisticated analyses, certain communities are obviously impacted and there are things that can and should be done now to help them.

The above is not in any way a complete list of the concerns that have been raised to the Committee, nor does it capture the strong emotions that accompanied much of the testimony. It is also not organized to reflect any priority or importance. It does, however, provide a general sense of the range of concerns that the Committee has had to consider in preparing its recommendations. A more detailed summary of public testimony and written comments is included in Appendix I.

The Committee also solicited specific public input on the use of precautionary approaches, possible definitions and interpretations of the Precautionary Principle, and approaches to assessing cumulative impacts. Presentations were made to the Committee at a meeting focused specifically on those issues, and substantial written and oral public comment was received. Materials considered by the Committee can be found in Appendix (?).

~~The Environmental Justice Advisory Committee recognized, early on, that developing recommendations and advice to Cal/EPA and the Interagency Working Group on Environmental Justice (IWG) required a concerted effort to ensure that all stakeholders, particularly communities most impacted by environmental justice issues, directly informed the discussions and dialogues of the EJ Advisory Committee. In preparing the Recommendations, the EJ Advisory Committee received considerable public input from various stakeholders, including community residents, community groups, non-profit organizations, environmental organizations, public agencies, business and industry sectors. In addition, input was received from the broad range of viewpoints and expertise of the Advisory Committee members themselves. Information and input received during public participation and involvement processes formed the scope and framed the issues and content of the Report. An involved series of public participation opportunities included:~~

- ~~—Public comments/testimony from EJ Advisory Committee meetings;~~
- ~~—Public workshops of the draft EJ Strategy Framework (Oakland, Fort Ord, Fresno, Los Angeles, and San Diego); and~~
- ~~—Written comments.~~

~~The first two public meetings of the EJ Advisory Committee (May 2002 in Los Angeles, and June 2002 in Oakland), the EJ Advisory Committee and the Interagency Working Group served to frame key environmental justice priorities and issues, and the subsequent Public Workshops (convened by Cal/EPA staff) held in September 2002 throughout the state of California refined and further informed issues for consideration by the EJ Advisory Committee. The EJ Advisory Committee had the responsibility to make decisions regarding various issues that came before it, and how those issues would be communicated and translated into the recommendations. When making decisions, the EJ Advisory Committee sought the most inclusive and informed consensus of the Committee, and when consensus could not be reached, a vote of the majority was sought. As described in the EJ Advisory Committee by laws, each member has the opportunity to communicate a dissenting or alternative opinion to the majority opinion of the Committee.~~

Overview of Public Comments/Input Received

~~Issues related to environmental justice and opportunities to address environmental justice are many and far reaching. As heard during the series of public participation processes, the challenge before~~

~~the EJ Advisory Committee was to craft and communicate a set of Recommendations to Cal/EPA and the IWG that was mindful of the realities facing affected communities, populations, and interested stakeholders/constituencies in California.~~

~~Four overarching draft Strategy Elements, framed as a result of the Advisory Committee meetings and public testimony, formed the foundation of the Recommendations. The four overarching Strategy Elements were:~~

- ~~— **Element #1:** *Ensure environmental justice is integrated into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.*~~
- ~~— **Element #2:** *Ensure meaningful public participation and promote community capacity building to allow communities to be effective participants in environmental decision-making processes.*~~
- ~~— **Element #3:** *Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.*~~
- ~~— **Element #4:** *Ensure effective cross-media coordination and accountability in addressing environmental justice issues.*~~

~~Cal/EPA staff convened five public workshops to seek input into the draft EJ Framework. The public workshops were attended by approximately 200 individuals representing community organizations, nonprofit groups, residents, business and industry groups, and public agencies.~~

Note to Committee#7a): The Subcommittee requested that a paragraph be ~~included~~ added to the original Section IV to explain how the four elements were used in the public process to guide discussion at the public meetings, and to provide a framework for written comments. ~~Romel has agreed to provide this discussion.~~ In light of the push to finalize the document, the Subcommittee revised the Section without the additional material, which was subsequently provided by Cal/EPA staff. The alternate revision was attached to the April 21st draft document (it was too difficult to include both and show changes). The Committee needs to decide which version to use; On the Subcommittee call, Romel suggested we go with the version included above, and the Subcommittee provisionally agreed, however there was a bare quorum of members and the Committee should at least have the option of including the attached alternative (see: Alt Section IV.doc).

7b) In the text above, the Subcommittee proposes including reference materials on the Precautionary Principle, and Cumulative Impacts. The Committee should discuss this proposal and decide what, if anything, to include.

7c) In the final, post-comment document there should also be a brief summary of the public process that occurs between this draft and the final document for submittal, because that is when the public will be able to review and respond to the entire document in full. All nStill needed, as of 3/186/18/03.

~~As hoped, the public comments and input (both written and oral) received during the public workshops represented diverse views. Geographic specific issues/priorities were communicated, as well as programmatic concerns related to environmental justice implementation at all levels of environmental decision-making.~~

~~General Comments~~

~~The overall intent and purpose of the EJ Framework presented overarching concerns regarding:~~

- ~~—How far reaching is the Cal/EPA EJ Strategy and its impact on other levels of government (local agencies, other state agencies, and federal entities)?~~
- ~~—The process for the development of a Cal/EPA EJ Strategy needs to be mindful of the legislative intent of criteria development to identify gaps in environmental programs.~~

~~The Four Strategy Elements~~

~~Public comments related to the four draft strategy elements represented a wide range of viewpoints and generated various discussions associated with the identification of media-specific and programmatic environmental justice efforts outlined in the EJ Strategy Framework.~~

~~A full summary of the public comments related to the four strategy elements is attached as Appendix H.~~

V. Recommendations of the Cal/EPA ~~Advisory Committee on Environmental Justice~~Environmental Justice Advisory Committee

Note to Committee #8: Section V has been substantially revised. The 2 page summary of the Committee's discussion of precaution now appears in the beginning of this section, before the Goals. Revisions were made to that summary, per Committee discussion. Revisions were also made to Goal #1, and to Goal #2, Program Development, and part of Program Implementation (up to, and including, the first two bullets under Risk Reduction and Pollution Prevention). This is where Committee discussion on April 21st stopped; and it is delineated in the document by a triple line. The remainder of Goal #2, as well as all of the changes to Goals #3 and #4, appear as they did in the April 21st draft, except that the qualifying phrase about the negative criteria lists was included before the list under each of the Goals, and spell check was run on the entire document.

The Committee ~~expects-recommends~~ that each Cal/EPA Board, Department, and Office will develop its own policy document to more specifically guide its Environmental Justice program, ~~consistant~~consistent with, but not limited to the recommendations in this report. Some of the BDOs have already begun this process, and may even have completed a policy document on Environmental Justice. These BDOs should still review the recommendations in this report, however, to identify any areas or concepts that they have not addressed, and to support collaboration and ensure program integration across media and throughout the agency. The four Environmental Justice Goals identified by the Committee should guide the creation of each BDO

policy document. For each Goal, the Committee has established a general check list of the criteria that distinguish successful programs in that area. A list of warning indicators is also provided, to alert the BDOs to programs that may not be achieving the Environmental Justice Goals. The BDOs should use these lists as they develop and implement policies and actions for Environmental Justice.

In considering its Recommendations, the Committee sought and received substantial public comment (see previous section). The Committee has given careful consideration to the comments made by the public, and is grateful for the input. The Committee has structured its Recommendations around four key goals. These goals are framed after the four draft strategy elements, and have been identified by the Committee as Environmental Justice goals. Broadly, they reflect the mandates given to the Committee and the Interagency Working Group. The goals also reflect the Committee's understanding of the broader issue of environmental justice, and therefore encompass more than the specific items the Committee was directed to address. The goals include: (1) providing for meaningful public participation, (2) integrating Environmental Justice in all environmental programs, (3) improving research and data collection with respect to Environmental Justice, and (4) ensuring coordination and accountability in addressing Environmental Justice. As mentioned previously, the Committee also engaged in a significant discussion of precautionary approaches to environmental regulation, and the analysis of cumulative impacts. Some very concrete recommendations came out of these discussions, and the public comment received on the issue. These recommendations appear throughout the four Goals, although they are most heavily concentrated under Goal #2. In addition to the actual recommendations, the Committee reached some important conclusions on use of precaution, and the considerations that affected our ability to reach consensus on this issue.

~~The Committee devoted the majority of its discussions to identifying concrete steps that Cal/EPA can take to address Environmental Justice problems. In particular, the Committee gave extensive consideration to precautionary measures and approaches, and to the assessment and mitigation of cumulative impacts, especially through pollution prevention.~~

The Committee reached broad consensus on the importance of using precautionary approaches to environmental and public health protection. Committee members believe that it is not necessary or appropriate to wait for actual, measurable harm to public health or the environment before evaluating alternatives that can prevent or minimize harm. The Committee also recognizes that many programs currently implemented by Cal/EPA and its Boards, Departments, and Office are precautionary in nature. Based on the data available to the Committee, it also concludes that additional precaution may be needed in order to address or prevent Environmental Justice problems.

Consensus was more difficult on the question of where specifically greater precaution is warranted, and to what degree. Committee members struggled to balance a number of competing needs and concerns. The following is a brief list that is intended to characterize the types of needs and concerns the Committee worked to balance, but it is by no means complete.

- The need for programs and agencies to be more responsive to community fears-concerns about potential threats to their health and/or environment, balanced with a concern that

resources are limited and need to be expended to prevent or mitigate real-well-understood impacts on public health and the environment, and targeted at the most significant impacts first.

- The need for scientifically supported tools, processes, and decisions, balanced with a concern that lack of complete scientific data has been used in the past to delay or prevent reasonable actions to address pollution problems.
- The need of community members to be assured that their health and environment will not be placed at risk by environmental decisions, balanced with a concern that no action can ever be shown to be risk free.
- The need of agencies and businesses to minimize costs and maximize benefits of actions undertaken, balanced with a concern that current methods of evaluating costs and benefits do not adequately address the wider social-costs to society and benefits of environmental decisions, or the distribution of those costs and benefits.
- The need to reduce emissions and exposures within a disproportionately impacted community, and concerns about the potential for business closure and job loss.

There is a certain amount of tension between the desire for a clean and healthy environment, and the desire for a vital and productive economy that cannot be avoided. Committee discussions and the testimony received repeatedly highlighted this tension. For example, the Committee had extensive discussion about ways to ensure that less toxic alternatives are not only considered, but actually used. A number of case studies were mentioned where less toxic materials have been successfully and cost-effectively substituted for a variety of purposes ranging from cleaning products to pest control to product manufacturing. Committee members also heard from the business community that it has very significant worries about the impacts of regulatory intervention in this area, believing that governmental agencies do not have the expertise to dictate the materials used in manufacturing processes.

At the same time, the Committee recognized that these otherwise competing goals are sometimes not mutually exclusive, and can even be mutually supporting. An example of the latter case is when innovation to meet environmental goals results in a new, successful product or sector for the economy.

The Committee heard and considered carefully the concerns expressed by many that the welfare of a community depends on *both* its environment and the availability of jobs for community members. Recognizing this, the Committee urges those who would take action to address Environmental Justice issues with a community to strive for solutions that do not have an adverse economic impact on the community or jobs, and to involve community members and other stakeholders in decisions that might impact jobs. In some cases, a primary impact on certain jobs may be unavoidable; Committee members acknowledged this but felt these cases would be the exception rather than the rule, and pointed to the use of job relocation, “just transition” and other efforts to create new, less environmentally damaging economic opportunities when job loss cannot be avoided.

The Committee also identified two objectives that should not be viewed as competing, and should be considered a fundamental part of successful, just, environmental programs.

- First, The Committee specifically recognizes the frustration of community members who feel they have faced unreasonable hurdles to demonstrate that their health and/or environment are in fact being harmed, or are at risk of substantial harm, and the Committee believes Cal/EPA should take steps to make its decision-making processes more available and responsive to community concerns.
- Second, The Committee also recognizes the importance of economic vitality in the state, and the business community's need for fair and predictable processes, and requirements that are feasible both technically and on the basis of cost; the Committee believes that Cal/EPA should pursue solutions that meet these needs.

In seeking environmentally just solutions, Cal/EPA should give priority to these two objectives.

Rather than debate definitions for broad concepts, the Committee focused its efforts on identifying practical applications of precaution and mitigation strategies ~~that all Committee members could support~~. Consensus here was also difficult, but improved when certain factors were clearly present. The following list briefly characterizes select factors that ~~fostered consensus~~helped bring Committee members closer to agreement.

- The potential harm is significant and commonly recognized ~~(such as the exposure of children to lead in playground structures)~~.
- The actions or alternatives contemplated have been shown in practice to be feasible and low cost ~~(such as re-routing a truck route to a different but accessible street to avoid a school)~~.
- Resources are available to provide technical and financial assistance ~~(such as grant programs to reduce emissions of diesel particulate exhaust)~~.
- Processes are transparent, and structured to allow all affected parties to fully understand the actions under consideration, to participate meaningfully, and ~~safeguard~~communicate their key interests.

Committee members also were careful to articulate outcomes that were not intended to result from these recommendations. The following list describes some of the outcomes that Committee members felt should be avoided.

- Recommendations to collect and consolidate data should not result in lengthy delays in the implementation of reasonable, feasible strategies to reduce known and significant impacts.
- Recommendations to establish policies and engage in more meaningful public processes should not supplant efforts to implement and enforce requirements for environmental and public health protection.
- Recommendations to enhance precaution should not be interpreted to mean a guarantee of zero risk, or a mandate to act without credible threat of harm.

In general, as Cal/EPA and its BDOs undertake these recommendations, they should strive to avoid extremes in their interpretations. Instead, the recommendations should be implemented in the spirit in which they were made: with a genuine desire to identify real Environmental Justice

problems and circumstances of disproportionate, cumulative impacts, and to make real improvements in those situations.

Note to Committee: #9a) The draft minutes from the April 21st meeting differ from the edits noted on the master document regarding the mechanism to address concerns about job impacts; the draft minutes call for a 4th bullet in the list above, whereas the edits on the master document indicate that the concept would be incorporated in some fashion, but not as a bullet.

9b) There was discussion of recasting the statements “The Committee specifically recognizes...” regarding hurdles faced by communities, and business concerns about fair, feasible requirements as “balancing” bullets. But the discussion mostly highlighted the importance of keeping both priorities in mind, so instead of recasting them, additional clarifying language was included.

The first goal for addressing Environmental Justice is to improve public participation in environmental decision-making. It forms the foundation for successful implementation of the other goals. Wherever recommendations under the other goals call for the use of public participation or public process, the Committee explicitly means a public participation process as described under Goal #1.

Goal #1: *Ensure meaningful public participation and promote community capacity building to allow communities to be effective participants in environmental decision-making processes.*

Meaningful public participation is critical to the success of any effort to address environmental justice issues. For that reason, it is the first goal identified by this Committee, and the successful implementation of the other goals rests on realizing this one. The criteria that distinguish successful programs for meaningful public participation include:

- ✓ Guidelines for meaningful public participation
- ✓ The identification of an office or contact person who has authority and responsibility for coordinating effective public participation opportunities
- ✓ Awareness of and sensitivity to community-specific communication issues (including media, venue, language, and other cultural issues)
- ✓ Relationship building prior to environmental decision points
- ✓ Educational, technical, and other assistance (i.e., capacity building) to support meaningful participation in environmental decisions – subject to the specific limitations in state law regarding the use of government funds for lobbying and other activities
- ✓ Early public involvement in environmental decisions
- ✓ Availability and timeliness of materials and information
- ✓ Feedback to participants and commenters

There are also indicators that a public participation program is not successful. If one or more of these indicators are present, the underlying cause(s) should be examined because there are other reasons that these circumstances might occur even if the program itself is sound. Gaps in

programs that result in less meaningful public participation may be indicated by the following warning indicators:

- Complaints from the public (including lack of opportunity to comment, inadequate notice of events, inconvenient meeting times/locations, unavailable materials, lack of responsiveness from agency, etc.)
- Poor attendance at public meetings and low response to notices, requests for comment, etc.
- Lack of participation by a particular community or segment of a community, especially if English is not the primary language
- General belief within the community that their input does not influence the outcomes of agency decisions.

The Committee recommends specific actions to ensure meaningful public participation in environmental decision-making. The recommendations are organized into four categories. These categories are (a) Guidelines & Staff Training, (b) Availability of Information, (c) Capacity Building, and (d) Relationship Building.

Guidelines & Staff Training: These are recommendations for internal activities to support meaningful public participation.

- Develop guidelines for agency staff on meaningful public participation and community relations that emphasize collaboration with community members on environmental issues and building and sustaining productive working relationships with communities.
- Enhance staff training to increase awareness of environmental justice, including but not limited to, public participation, meaningful community outreach, and public accessibility of information, and ensure that staff training is an integral component of all of these elements.
- Collaborate with other agencies or governmental offices (including federal, state, local, and tribal governments, and the Mexican government on cross-border issues) to leverage resources, avoid duplication of effort, and enhance effectiveness of public participation opportunities.
- Extend staff training opportunities to stakeholders, especially local governments, who interact with the communities on similar or related issues.
- Add public participation responsibilities to appropriate job descriptions and include public participation criteria in employee performance reviews.

Availability of Information: These recommendations are designed to increase public access to information necessary for meaningful participation in environmental decision-making.

- Initiate outreach efforts as early as possible in the decision making process, before significant resources have been invested in a particular outcome.
- Design outreach efforts to appropriately address the culture of the community (e.g., urban, rural, migrant, etc.) to improve community participation.
- Distribute notices and materials widely throughout the community. If all materials cannot be widely distributed, provide quick, easy access for community members to obtain them.

- Use multiple ways of notifying the community of upcoming meetings, workshops, hearings, and proposed action dates (e.g., electronic posting on websites, announcements through local media, fliers at libraries, schools, community centers, etc.).
- Encourage communication in non-traditional ways; for example, use “universal” pictures to convey complex ideas instead of (or to supplement) technical written materials and blueprints.
- Ensure materials are distributed far enough in advance of meetings, workshops, hearings, or proposed action dates to allow community members sufficient time for review and comment.
- When environmental decisions directly affect a specific community (for example, siting decisions), hold meetings and workshops, at times and locations that are convenient for community members to attend
- Provide adequate translation or interpretation services for documents and public meetings.
- Complete the “plain, straightforward language” description of how to navigate California’s complex regulatory process (mandated by January 2002 legislation renewing Polanco Act of 1990).

Capacity Building: These recommendations are made in response to community comments about their need for resources to increase their understanding of the technical and procedural aspects of environmental decision-making, in order to participate in a meaningful way.

- Develop and widely distribute a handbook for the public that identifies and explains public participation rights and opportunities.
- Identify opportunities to provide grants and technical assistance to communities and local government, to enhance their knowledge and understanding of environmental issues and governmental processes.
- Implement and support the Cal/EPA Environmental Justice Small Grants program (AB 2312, Statutes of 2002) to enhance stakeholder participation in environmental decision-making processes.
- Explore ways to assist stakeholders in reviewing technical documents related to environmental decisions affecting their communities (such as providing access to technical experts through local colleges or universities).
- Provide and/or support educational and training opportunities for community members such as seminars on specific media, programs, etc. For example, a lecture by agency staff or through a local college could build community understanding of brownfield redevelopment.
- Where possible, collaborate with existing community adult-education programs.

Relationship Building: These recommendations reflect public comments underscoring the need for a respectful relationship if meaningful communication is to occur.

- Initiate communication with communities before environmental decisions/concerns arise, and continue regular opportunities for ongoing communication.
- Explore opportunities to establish community affairs offices and to recruit community residents for positions in these offices.
- Establish community liaisons, advisory groups, and task forces.

- Capitalize on existing community resources by building positive and effective working relationships with community-based and non-governmental organizations.
- Ask community members to identify issues, questions, and/or concerns, separate from the agency's agenda.
- Identify what the agency can and will do, and establish timelines and accountability.
- Provide feedback to people or groups who make comments, suggestions, complaints, requests, etc. Acknowledge ideas and efforts that shape agency actions (give credit where credit is due).
- Create and maintain an atmosphere of openness and mutual respect.

Goal #2: Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

Establishing Criteria to Identify Environmental Justice Gaps: Where Environmental Justice impacts have already been documented, or Environmental Justice concerns are clearly understood to exist, discussions about criteria should not prevent agencies from using available data and tools, and taking action to respond to those concerns. The Committee also recognizes that there are also circumstances where the existing data and tools do not allow a quick determination of either the problem or the appropriate response. Development of these data and tools should be a high priority, as should fair criteria for their use. In developing the data, tools, and criteria for their use, agencies should ensure meaningful public participation (see Goal #1).

Programs that have successfully integrated this Environmental Justice goal will meet the following criteria:

- ✓ Consider Environmental Justice issues in developing and revising programs and program elements, including explicit analysis of Environmental Justice in the staff report for significant actions, or other supporting documentation.
- ✓ Ensure that program development and adoption processes do not create new, or worsen existing, Environmental Justice problems.
- ✓ Ensure meaningful public participation in environmental decision-making processes.
- ✓ Establish guidelines, procedures, and performance measures to ensure equitable implementation and enforcement of programs.
- ✓ Include data, tools and procedures to identify existing Environmental Justice problems.
- ✓ Give high priority to actions that will address existing Environmental Justice problems.
- ✓ Dedicate resources and identify staff members responsible for assuring that the agency properly considers and addresses existing and potential Environmental Justice problems.
- ✓ Assess the relationship between socio-economic indicators (i.e., race, income, etc.) and the distribution of pollution sources and any associated health impacts.

Note to Committee #10: The draft minutes from April 21st differ from the edits in the master document regarding the last bullet, above. The draft minutes indicate changes to the bullet to include reference to "potential and actual exposure to pollution. Edits to the master document indicate that after some discussion (with the language per the draft minutes), the Committee agreed that "associated health impacts" addressed the stated

concern, and that inclusion of the word “any” avoided the presumption that the mere presence of a source leads to health impacts. The other language was therefore deleted in favor of adding the word “any.” If this edit is in error, please note and it will be changed.

There are also indicators that a program is not successful. If one or more of these indicators are present, the underlying cause(s) should be examined because there are other reasons that these circumstances might occur even if the program itself is sound. Programs that have less successfully integrated Environmental Justice may be identified by the presence of one or more of the following warning indicators:

- Data indicate that low income populations and/or communities of color are disproportionately impacted by air environmental pollution.
- Public complaints are made regarding inadequate or unfair enforcement of agency rules and regulations.
- Agency resources are disproportionately deployed (i.e., fewer resources are devoted to low income communities and/or communities of color than are devoted to wealthier, predominantly Caucasian communities.
- Penalties for environmental violations with similar fact patterns are lower for violations in low income communities and/or communities of color.

Addressing Environmental Justice Gaps: The following recommendations are intended to prevent the creation of new Environmental Justice problems, and to help address existing gaps identified by the Committee. In order to facilitate review and discussion of the Committee’s recommendations to address Goal #2, the Committee has grouped the recommendations into three broad categories. The categories are: (a) Program Development & Adoption, (b) Program Implementation, and (c) Program Enforcement.

Program Development & Adoption: Program development and adoption varies somewhat between the Cal/EPA Boards, Departments, and Office, because their authorities, mandates, and administrative procedures are different. In general, however, these are activities undertaken to establish new program elements through a public process with all stakeholders.

- Include an analysis of Environmental Justice when developing and revising programs and program elements, including explicit analysis of Environmental Justice in the staff report or other supporting documentation.
- Consult with communities and other stakeholders, and consider their priorities and concerns prior to developing or revising program elements, rules, or policies.
- Give high priority to known Environmental Justice problems when establishing program development agendas.
- Use a public process to identify opportunities to advance environmental justice goals within the current statutory and regulatory structures, as well as any necessary changes or clarifications.

—Option 1a:

- ~~— Establish, through a public process, a working definition of the “precautionary principle” as it will be used by Cal/EPA and its Boards, Departments, and Office.~~
 - ~~Option 1b: Establish, through a public process, criteria and actions to implement the “precautionary principle”, as defined by Cal/EPA and its Boards, Departments, and Office.~~
 - Option 1: Officially recognize the importance of precaution, and that it is not necessary to wait for evidence of actual harm before taking action to prevent harm from occurring.
 - Option 2: Identify, for each BDO, significant decision points or processes within the existing and developing programs where a precautionary approach is currently used, or could be used, and evaluate whether additional precaution is needed to address or prevent Environmental Justice problems.
- Identify, through a public process, a set of criteria or indicators that can be used as a coarse separator screening tool to locate and prioritize potential Environmental Justice problems, and how the prioritized information will be used. ~~In some cases, the coarse assessment will be followed by more detailed analyses before decisions or actions are possible; in other cases, the coarse assessment may be sufficient.~~
 - Identify, through a public process, a set of reasonable, low-cost, achieved-in-practice approaches that could be used to prevent or minimize adverse environmental impacts, and develop a process for consideration and use of these approaches.

Note to Committee #11a) The draft minutes from April 21st differ from the edits to the master document regarding the number of options under consideration. The draft minutes retained the previous options 1a) & b) from the original framework document. The edits to the master indicate that those options were deleted in favor of Option 2, as **modified**, with the addition of a new Option 1, regarding the importance of using precaution (language taken from the introductory discussion). The Subcommittee recommends the Committee consider these bullets as complementary, instead of alternatives to each other; in other words, both could be included.

11b) The Subcommittee went back to using the term “screening tool” because of uncertainty about what “coarse separator” actually meant. There continues to be significant concern about the concept of a screening tool and how it would be used. There may be more detailed and neutral language that could be substituted, however the issue seems to go deeper than merely semantics.

Program Implementation: As noted already, the programs of the different Boards, Departments and Office vary considerably. Public comments were received about specific programs, or aspects of those programs. The Committee has developed recommendations following the issues raised by the public, and has grouped them along common themes. The areas considered are: Facility and Project Siting and Permitting, Risk Reduction and Pollution Prevention, Site Remediation, and Land Use and Zoning..

Facility or Project Siting and Permitting:

- Identify the appropriate roles of Cal/EPA and its Boards, Departments, and Office in promoting Environmental Justice in permitting and siting decisions.
- Where Cal/EPA or a BDO has direct authority or decision-making responsibility in permitting ~~and siting~~ actions, the agency should establish, through a public process, a programmatic framework for permitting/siting decisions that includes:
 - Specific criteria to identify Environmental Justice problems when evaluating a permit/~~siting~~ application;
 - Fair and effective mechanisms to address identified Environmental Justice problems as part of the permit/~~siting~~ action.
- Where Cal/EPA advises or oversees local governments that have primary jurisdiction in permitting and siting decisions, the agency should work with those local governments (~~before permit applications have been submitted to them~~) to help them establish appropriate programmatic mechanisms to identify and address Environmental Justice gaps in permitting and siting decisions.
- Collaborate with OPR (~~in its capacity as the state's coordinating office for Environmental Justice~~) to establish general guidelines for other state agencies to ~~use in~~ help them create ~~appropriate, programmatic approaches for~~ their permitting and siting decisions to identify and address Environmental Justice issues.
- Develop and make available to other state ~~and local~~ agencies tools and information to support Environmental Justice considerations in permitting and siting decisions.
- ~~Include health-based siting criteria in permit conditions. Joe, please provide clarifying language. Permit conditions are only created after a facility has been proposed for a specific site, so I don't think you mean "siting criteria" per se, or perhaps you do want siting criteria, but you don't mean permit conditions, you mean guidelines for approval/disapproval. Also, could you clarify "health-based"? Do you mean proportional to estimated health risks?~~ Establish permitting guidelines that would prevent the location of certain types of facilities within a specified distance from residences or other sensitive receptors (e.g., a buffer zone around homes, schools, or daycare facilities with respect to the permitting of a new chrome plating operation).
- ~~Include permit conditions that contain public health protection requirements proportionate to cumulative pollution burdens. Joe, please provide clarifying language. Are you looking for emissions control/risk mitigation requirements that are triggered by a cumulative risk level (i.e., some control at level A, greater control at level B, etc.)? If so, My suggestion is to move this to the next subsection (Risk Reduction and Pollution Prevention).~~ Establish more restrictive action thresholds and control requirements for permits for operations in areas where the cumulative pollution burden is disproportionately high.
- ~~Require the use of the least toxic materials and processes that meet project objectives for all new industrial processes.~~
- ~~In areas that have been identified as having a disproportionately high cumulative impact, require applications for new or modified facilities to include a pollution prevention analysis that addresses the following:~~
 - ~~opportunities for material substitutions;~~
 - ~~top-down selection of alternative materials (i.e., non-toxic is considered first and then the next least toxic material, and so on)~~

- clear justification for any proposal to use a material other than the least toxic available (including, for example, availability of data or materials, feasibility of substitution, product performance/safety issues, etc.)
- other alternatives analyses (i.e., process changes, fuels substitutions, movement of raw materials/product, other energy considerations), with justification for the alternative selected.

Note to Committee #12a) The bullets highlighted in pale blue were recommended for the April 21st draft, but were not included because the intent was not clear. The Subcommittee discussed the intent and clarified language has be included. The Committee may wish to discuss whether these recommendations may be more appropriately placed in another subsection (i.e., Land Use and Risk Reduction, respectively).

!2b): The new bullet highlighted in yellow is a substitution for the deleted bullet (also highlighted); this is an attempt to reconcile several different approaches, including a preference for non-toxic where possible, a desire to expand the substitution analysis to other hazards, a concern about agency resources, and a concern about government dictating raw material use or product formulation.

Note to Committee #13: The following categories contain bullets that refer to “cumulative impacts” and the Subcommittee felt this term needs more discussion from the Committee. In other arenas (namely the stakeholder process to develop Environmental Justice Policies for the ARB) the term “cumulative impacts” was discarded in favor of “cumulative emissions, exposures, and health risks.” That phrasing may or may not be appropriate in the context of each of the following bullets, or may need to be adjusted in recognition of the broader application of these recommendations (other media with other terms of art, e.g., discharges into water, or site remediation goals). The Subcommittee also deferred discussion of the “precautionary principle” to the full Committee; the Subcommittee wanted to include additional language to assist the Committee’s discussion but the specific language here has NOT been endorsed by the Subcommittee members. Finally, the Subcommittee felt that greater specificity could be provided but more discussion is needed with the IWG about specific program areas. Still needed as of 6/18/03.

Risk Reduction and Pollution Prevention:

- Develop peer reviewed tools to assess cumulative impacts, and equitable, scientifically-based criteria for using these tools to identify Environmental Justice problems.
 - Develop criteria and protocols for identifying and addressing EJ gaps in standard risk-assessments, taking into account impacted and affected sensitive populations.
-
- Develop criteria and protocols to enhance current approaches to cost-benefit analysis, supporting a more comprehensive evaluation of trade-offs between health, environment,

innovation, economic development, and other important societal values when devising strategies to reduce risks.

- Reduce environmental risks to children through pollution prevention and other mechanisms by:
 - Identifying the pollutants and pollution sources (including industrial, municipal, transportation, and others) which present the highest risk to children, based on toxicity, proximity, persistence, or other factors;
 - Prioritizing these pollutants and processes for further action, and conducting research into non-toxic and/or less toxic alternatives;
 - Requiring adoption of non/less toxic alternatives through a comprehensive alternatives assessment process that includes evaluation of technical feasibility and cost, and allows a reasonable transition period;
 - Providing assistance and resources to businesses, municipalities, and other entities to implement non/less toxic alternatives during the transition period.

In order to implement the above, Cal/EPA should identify exercise its existing authority, where needed seek additional authority through legislation, or promote action by other agencies that have authority, as appropriate. In implementing these actions, however, Cal/EPA should not create an unfunded mandate for local governments. Select examples of risk reduction actions include:

- ✓ Requiring schools and municipalities to adopt ordinances that implement Pollution Prevention or precautionary approaches to reduce and eliminate the use of toxic pesticides, cleaners, paints, inks, etc., based on a comprehensive assessment of alternatives;
 - ✓ Requiring municipalities to redesign traffic flow to limit or eliminate diesel vehicle traffic through residential communities;
 - ✓ Requiring welding operations to utilize low-fume/low heavy metal welding rods and low-fume processes;
 - ✓ Instituting a phase-out of toxic boat bottom paints, specifically copper leaching and copper ablative bottom paints..
- Reduce the environmental risks in impacted communities by taking the following actions. In implementing these actions, Cal/EPA should not place an unfunded mandate on local government and/or local programs.
 - Identifying all facilities based on existing data that may pose a threat to human health and the environment because of their storage, use, disposal, or emission of hazardous substances. To implement this item, Cal/EPA should make use of currently available data under California's right to know laws and federal facilities information, including Superfund and the National Priorities List (NPL), and shall at a minimum rely on the thresholds for reporting under those laws.
 - Using a public process, assess cumulative pollution burden for disproportionately impacted communities based on the degree of threatened harm to human health and the environment the communities experience.
 - Using a public process and data from the previous two steps, identify and prioritize disproportionately impacted communities.
 - Using a public process, establish goals and performance measures to reduce the threat of harm to human health and the environment in these disproportionately

- impacted communities, using enhanced emission controls and pollution prevention.
- Encouraging public participation, and supporting state and local agencies, to enhance the role played by residents in disproportionately impacted communities in decisions about how to reduce pollution and risks in their community.
- Establish goals to reduce health and environmental risks, such as:
 - ✓ Identifying contaminants in breast milk and/or children's blood, the key sources of those contaminants and routes of exposure, and setting goals and timelines to eliminate the contamination;
 - ✓ Setting goals and timelines for eliminating lead poisoning in children;
 - ✓ Setting goals and timelines for reducing the incidence of asthma.
- Identify and address EJ gaps related to preventative approaches to risk reduction.
- Explore opportunities for demonstration for new technologies that will reduce risks.

Note to Committee #14: There appears to be substantial concern among Committee members regarding: (1) the premise that the mere presence of a material constitutes "pollution burden" on the community; (2) the presumption that the analysis of "pollution burden" can be done for every community in the state and the lack of clear direction to begin with a manageable subset and gradually expand the analysis to additional communities; (3) the lack of focus on EJ communities, or the lack of an initial step to include an assessment of whether there is an Environmental Justice gap; and (4) the presumption that Cal/EPA can require municipalities to adopt ordinances, or even should REQUIRE it (as opposed to requiring that Boards/Councils CONSIDER passage of ordinances; and (4) the prospect of Cal/EPA dictating which chemicals MUST be used in a manufacturing process (because of competing needs such as product performance, safety, reliability, durability, etc.). The Committee should discuss and clarify this language.

Site Remediation:

- Develop criteria and protocols for identifying and addressing EJ gaps in clean-up related activities (e.g., standard setting, risk assessments, etc.).
- Recognizing that sites posing the greatest health risk receive top priority, Give high priority to remediation projects in situations of known Environmental Justice problems, especially where the contaminated site contributes a substantial portion of the cumulative risk to the community.
- To promote the reuse of known or suspected contaminated (i.e., brownfield) sites, and to increase the supply of affordable housing Cal EPA should:
 - Establish a statewide database of contaminated sites that, after clean-up, have potential for redevelopment, especially mixed-use and/or affordable housing potential, and publish this information online. In compiling this database, existing databases such as the state's Cortese List and lists of federal facilities with housing potential (i.e., base closures, etc.) should be consulted;—[Note: reference to "Cortese List" may be appropriate here, more info needed]

- Establish guidelines for clean up that are based on the intended use of the site (not currently codified). Guidelines should give priority for environmental and public health concerns, consider community needs, and provide regulatory certainty and protection from ~~protracted and costly~~ litigation when environmental ~~impacts~~ mitigations and other conditions have been met;
- Fast-track the approvals process related to brownfield remediation;
- Provide financial and technical assistance to local jurisdictions and private/non-profit developers for site assessment and inventory development;
- ~~Eliminate~~ Improve implementation of requirements to eliminate duplication in oversight authority for brownfield between the DTSC and SWRCB (State Water Res. Control Board). Improve the process for determining a lead agency in order to eliminate inefficiencies that result from fragmentation; ~~and~~
- Further seek clarification of the roles of state and local agencies in brownfield redevelopment, and assure that agencies have (or retain) the appropriate technical expertise, including access to toxicologists and public participation specialists when overseeing brownfield remediation; and
- Provide fiscal and regulatory incentives to developers and communities to clean-up contaminated sites. Incentives should not lead to less protective clean-up standards, but could consider flexibility in restrictions on end land use.

Land Use and Zoning:

- Determine and articulate Cal/EPA's role in local and regional land use and zoning decisions.
- Collaborate with local governments to help them identify and address environmental justice issues, particularly as they relate to community planning, and locally undesirable land uses.
- Develop a list of obvious, high-impact project scenarios that should be avoided, and make this list available to local land-use planners.
- Collaborate with OPR to identify actions that local governments should consider to [or: "could take"] reduce impacts of pollution in communities identified as disproportionately impacted, such as:
 - ✓ *Creation of buffer zones around significant sources of risk;*
 - ✓ *Relocation of small sources away from residential areas or sites of sensitive receptors;*
 - ✓ *(Option 1) Prevention of siting of facilities that would increase the impacts of pollution on the disproportionately impacted community unless there are community validated findings of overriding considerations;*
 - ✓ *(Option 2) Examine mechanisms and tools to assist local government in siting criteria and design of facilities that would significantly increase the impacts of pollution on disproportionately impacted communities.*
 - ✓ *Adoption of stricter control and/or pollution prevention measures to reduce the overall emissions.*

In implementing these actions, Cal/EPA should not place an unfunded mandate on local government and/or local programs.

- Collaborate with OPR on the development of land use and zoning guidance for municipalities, including:
 - Requirement for municipalities to demonstrate integration of environmental justice principles into general plans at their next General Plan update; and
 - Requirement for municipalities to adopt new land use and zoning laws which use a buffer zone or other measure to prevent the location of residences, schools, or other sensitive populations near sources of pollution.
- Require environmental justice and alternatives assessment as part of all new permitting, including:
 - Pursue amendments to CEQA to require meaningful alternatives assessment that addresses all alternative processes, methods and locations for new projects; and
 - Require cumulative impact analysis for new applications; and
 - Increase the role and authority of community residents via community planning groups or other entities that have a significant role in the permit decision-making process.

Note to Committee #15: There are also concerns here similar to those about the precautionary additions to the Risk Reduction and Pollution Prevention section. In particular, the presumption that Cal/EPA (or even OPR) can require these actions of local governments has raised particular concern. Some of this language refers to “should consider” or “could take” as opposed to “must” or requirements. The committee should review whether the “must” is truly intended, or whether, in the interest of consensus, strong direction, or even a “requirement to formally consider” certain actions would accomplish the objectives and be more consistent with existing authorities.

Program Enforcement: In this context, Program Enforcement refers to the activities undertaken to ensure that regulated facilities, sites, entities, and/or users comply with the requirements that apply to them, including agency response to complaints from members of the public.

- Develop criteria for identifying and addressing EJ gaps in equal application of environmental enforcement efforts.
- Identify opportunities to utilize enforcement as a means to deliver the benefits of environmental protections to all communities.
- Review the frequency of routine inspections to ensure that inspections are timely and equitable.
- Ensure adequate and fair deployment of enforcement resources
- Track, evaluate, and when necessary, remedy potential race-related or income-related discrepancies in the enforcement of environmental programs.
- Adopt progressively more punitive measures against permit holders who repeatedly violate environmental laws or regulations.
- Provide periodic reports on inspections completed.
- Establish a Complaint Response protocol for each Cal/EPA BDO, including accessibility of complaint lines, language barriers, timeliness of response, investigation procedures, and feedback to the complainant.

- Provide periodic reports on complaints received and outcomes.
- Establish an auditing process to ensure the complaint response process is effective.

Goal #3: Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.

The Committee heard significant comment from the public about the lack of available information regarding a wide range of issues of concern. In general, Cal EPA is mandated to improve research and data collection for all of its programs, in order to ensure environmental protection for all Californians. The knowledge gained through this effort will support environmental justice efforts. The Committee recognizes, however, that more information is needed that specifically addresses the health and environment of communities of color and low-income populations if the goal of environmental justice is to be ensured. In addition, community members need to have greater involvement in the research process if the data is to be meaningful and useful.

Note to Committee #16: The Drafting Subcommittee was directed to incorporate successful criteria & warning indicators for this Goal. The Committee should review and revise the indicators as appropriate. Some comments suggested specific research activities as indicators, but it seemed more appropriate to keep specific activities as recommendations. The Committee should consider whether that is the direction it wants to take.

The criteria that distinguish programs for research and data collection that have successfully integrated Environmental Justice objectives include:

- ✓ Systematic identification of data needs inside and outside of the agency, and prioritizing research objectives, including specifically articulated data objectives related to community-specific health, environmental and socio-economic indicators.
- ✓ Regular consideration of the outcomes of previous and ongoing projects that assess(ed) community-specific health, environmental, and socio-economic factors, in order to identify data limitations (such as lack, availability, quality, and/or format of data) that materially hindered the success of the project.
- ✓ Regular consultation with community groups and other interested parties to identify their data needs, interest in participation in data collection efforts, and concerns about data use, availability, and privacy.
- ✓ Consistent efforts to optimize and leverage research funding and other resources, including evaluation of single media or other focused research efforts to determine if a small addition of resources will allow the data gathered meet multiple objectives.
- ✓ Consideration of a wide range of data sources, and efforts to further develop/enhance these sources, with specific consideration of research efforts designed and implemented within the community.

- ✓ Periodic evaluation of program objectives, project grants, and data outcomes to ensure fair and equitable research, and that the needs, concerns, or specific factors affecting low-income populations and/or communities of color are not overlooked.
- ✓ Systematic process for compiling, indexing, and sharing existing data, within the agency and with outside stakeholders.

There are also indicators that a public participation program is not successful. If one or more of these indicators are present, the underlying cause(s) should be examined because there are other reasons that these circumstances might occur even if the program itself is sound. Research programs that have less successfully addressed environmental justice concerns may be indicated by the following:

- Lack of coherent, integrated research and data collection plan.
- Lack of data specific to low-income communities and communities of color, and the absence of data objectives in these areas.
- Complaints from communities and other stakeholders regarding bias in research funding, objectives, or project design, data collection or reporting, or in conclusions based on research undertaken.
- Complaints from communities and other stakeholders regarding access to data.

~~In this case, the Committee has not set out criteria to identify research and data gaps, *per se*; gaps are understood to exist where there is not sufficient data to answer questions (general or specific) related to Environmental Justice. Instead, the Committee is recommending steps that Cal/EPA can take to ensure that data is collected that will support efforts to respond to Environmental Justice concerns, and that once it is collected, it is handled in a manner that is consistent with the goal of Environmental Justice.~~

In order to facilitate review and discussion of the Committee's recommendations to address Goal #3, the Committee has grouped the recommendations into three broad categories. The categories are: (a) Data Collection, (b) Data Availability, and (c) Community-based Research.

Data Collection: These recommendations focus on ways to augment existing data, in order to better address environmental justice issues.

- In order to identify and address gaps in research and data collection, Cal/EPA should prepare a research plan for the entire agency. This plan should highlight projects that benefit multiple media and/or programs, and support leveraging and prioritizing of limited resources. Projects related to Environmental Justice ~~goals~~ should be given high priority. The plan should be updated annually.
- Cal/EPA should also establish a clearinghouse, available on the web, for information associated with Environmental Justice.
- Develop, promote and support efforts to collect community and environmental data that will improve understanding of environmental justice problems, and lead to solutions and prevention of further problems.
- Consult with and provide greater involvement to community members prior to designing studies of the community.
- Support research into new or alternative means to reduce pollution and protect the environment.

- Support research into cumulative impacts from multiples sources of pollution, and through multiple media.
- Support research that includes biomonitoring to help assess individual body-burdens for environmental contaminants.
- Support research that enhances data on the impacts of environmental contaminants on children, the elderly, and other vulnerable populations, including parameters to assess variables such as income and race.
- Collect data to support GIS-based, multi-media analysis of emissions sources, the places where people live and work, and the demographics of the people in those locations.
- Assess cultural impacts, and the development of more complete databases on affected cultural issues (such as sacred sites, subsistence fishing, language barriers, etc.).
- Enhance systems for consistent environmental data collection and application to ensure applicability of data to environmental justice issues.

Data Availability: The Committee heard many complaints that when research had been done, or data was thought to exist, it was not available to those who had need of it. These recommendations are meant to enhance the availability of data, and to recognize and respect the needs of community members who agree to participate in research efforts.

- Make data collected by the agency about communities available promptly to the communities it was collected from, and other stakeholders, without violating basic privacy rights (for example by releasing an individual's medical data).
- Make data availability to the participating community members and other stakeholders a condition of funding external research projects, where possible, but ensure individual privacy is respected especially with data relating to the individual health of a community member.
- Establish mechanisms to prevent abuse of data collected from communities.
- Promote collaborative efforts between federal, state, and local agencies towards sharing of data and information relevant to environmental justice.

Community-based Research: Community-based research is used here to describe research efforts where the community (rather than government) plays a lead role in designing, implementing, and analyzing the results of the study.

- Establish greater respect for the knowledge base within the community.
- Explore mechanisms to address concerns about data integrity, chain of custody, bias, etc., to enhance general acceptance of community-based research.
- Establish mechanisms to support community-based research projects (e.g., grants, loans, technical assistance, or collaboration), consistent with AB 2312.

Goal #4: *Ensure effective cross-media coordination and accountability in addressing environmental justice issues.*

Note to Committee #17: The Drafting Subcommittee was directed to incorporate successful criteria & warning indicators for this Goal. The Committee should review and revise the indicators as appropriate. Some comments suggested specific research activities as indicators, but it seemed more appropriate to keep specific activities as

recommendations. The Committee should consider whether that is the direction it wants to take.

Programs that have successfully integrated Environmental Justice goals across environmental media, and embody a sufficient degree of accountability are distinguished by the following criteria:

- ✓ Development, implementation, and periodic review of Environmental Justice policies, goals, and objectives.
- ✓ Use of Environmental Justice work plans with specific, measurable, and time-bound action items.
- ✓ Clearly articulated objectives and mechanisms to ensure that media-specific policies, goals, objectives, and action items relate logically to those for other media, including coordinated development and implementation, resource leveraging, and mutual accountability.
- ✓ Commitment of funding and other resources needed to implement Environmental Justice policies, goals, objectives, and action items.
- ✓ Periodic progress reports to agency management and external stakeholders, including communities, on program implementation.
- ✓ Active solicitation of program evaluation (successes and failures) by external stakeholders, including communities, and established mechanisms to adjust programs based on input received.

There are also indicators that a public participation program is not successful. If one or more of these indicators are present, the underlying cause(s) should be examined because there are other reasons that these circumstances might occur even if the program itself is sound. Programs that have less successfully integrated Environmental Justice goals across environmental media, or lack mechanisms for accountability may be indicated by the following warning signs:

- Redundant or conflicting program elements.
- Lack of awareness of related activities within separate media programs.
- Expenditure of resources duplicating efforts of other agencies or entities.
- Complaints from external stakeholders, including communities, that agency efforts are biased, fail to address Environmental Justice issues, or repeat past failures in spite of stakeholder input.

In order to facilitate review and discussion of the Committee's recommendations to address Goal #4, the Committee has grouped the recommendations into two broad categories. The categories are: (a) Cross-Media Coordination, and (b) Agency Accountability.

Cross-media Coordination: Coordination between media (such as air, water, waste, etc.) is an important aspect of Cal/EPA's overall function as an agency. These recommendations are intended to improved cross-media coordination and better support Environmental Justice efforts.

- Develop protocols for effective coordination within Cal/EPA, its Boards, Departments, and Office, including regional offices, on environmental justice issues.
- Examine mechanisms to ensure greater coordination with federal state and local agencies.
- Explore opportunities to develop environmental justice projects that can function as models for collaborative approaches on environmental justice issues (similar to projects supported by U.S. EPA in their National Environmental Justice Action Agenda).
- Establish a California Office of Pollution Prevention (or some other formalized, centralized multi-media group) to:
 - a. Serve as a clearinghouse for information on less and non-toxic products and processes;
 - b. Evaluate products and processes under consideration by municipalities and industries;
 - c. Conduct research into new processes & products that could provide less toxic, or non-toxic alternatives for municipalities and industries;
 - d. Provide support to municipalities, industries, and other entities seeking to implement the recommendations for Risk Reduction and Pollution Prevention identified under Goal #2.

Agency Accountability: Accountability is a critical part of effective implementation of any strategy. It was also identified, by many members of the public, that this is an area where improvements could be made.

- Ensure full consideration of these Advisory Committee recommendations by Cal/EPA and the Interagency Working Group, ~~including and provide~~ a report from the Secretary of Cal/EPA to ~~Environmental Justice~~external stakeholders on the actions taken in response to these recommendations.
- Provide appropriate resources to carry out activities by Cal/EPA Boards, Departments and Office to address environmental justice issues.
- Develop performance measures to determine the success of environmental justice programs with review and input from ~~EJ~~external stakeholders.
- Promote periodic performance reports from Cal/EPA Boards, Departments, and Office, including regional offices, to external stakeholders.
- Ensure ongoing communication between Cal/EPA and external stakeholders.
- Clarify roles and responsibilities of federal, state, local, and (where applicable) tribal or Mexican governments/agencies with regard to environmental justice issues within the community.
- Ensure compliance with federal (Title VI of the Civil Rights Act) and state (CA Gov. Code 11135 in making environmental decisions.

VI. Implementation of Recommendations

Note to Committee #18: *The Committee has not discussed the contents of this Section. In order to complete this section, the Committee must complete its core Recommendations, prioritize them, and establish reasonable next steps, and*

accountability. Alternatively, the Committee must eliminate those items that cannot be accomplished, or defer them to a separate effort.: Still needed, as of 3/18/03.

- a. Next Steps
- b. Priorities
- c. Timelines
- d. Responsible Parties
- e. Resources (funding and staffing)
- f. Role of the Environmental Justice Advisory Committee

Note to Committee #19: The following are suggestions for approaching the prioritization of action items:

1. List action items that Cal/EPA has existing authority and direct responsibility to undertake.
2. List action items where Cal/EPA's role is oversight and/or support of local governments who have primary jurisdiction.
3. List action items where Cal/EPA's role is coordination with other state agencies who have primary jurisdiction.
4. List action items that depend on new legislative authority for Cal/EPA or whichever entity will have primary responsibility for implementation.
5. For each list above, create subcategories of action items that:
 - a. Are simply and readily implementable (i.e., do not depend on collection of additional data, completion of elaborate processes, or allocation of substantial new resources etc.)
 - b. Involve longer term processes (i.e., development of policies or regulations) but for which there is sufficient data/authority, and therefore may be initiated immediately (or at some later time, depending on priority).
 - c. Require the development of tools or the collection of additional data.
6. Within each subcategory, identify the three top priority actions.
7. Recommend time-frames for accomplishing each of the top three items in each subcategory, including progress reports.
8. Discuss, to the extent possible, responsible parties and resource issues for each of the "top three" items.

VII. Additional Recommendations

Note to Committee #20: ~~The Committee has not discussed the contents of this Section. In order to complete this section, the Committee must outline the nature of the recommendations or observations to be included. Alternatively, the Committee must eliminate those items that cannot be accomplished, or defer them to a separate effort.: Still needed, as of 3/18/03.~~ The Committee voted to cover

these items in a separate report (or some other venue, exactly how is not clear to the Subcommittee at this time). Does the Committee want all reference to these items removed from the report (except the Land Use discussion which was covered in the main recommendations in Section V)? Note that Tribal issues are raised in the introduction and the Committee voted to include the background paper on Tribal issues as an Appendix; is that sufficient discussion? Is something needed here? Does the Committee want a general discussion of some of the more obvious and pervasive issues that have been brought to the Committee's attention, such as transportation impacts on communities, federal facilities, and farmworker concerns? This section was originally Titled "Additional Considerations" or something like that and was intended to provide a place to discuss issues that Cal/EPA does not have direct authority over. If we returned to that type of heading, we could go the discussion route without needing to have actual recommendations – sort of a "further work needed" bin.

- a. Land-Use Decision Making
 - i. Office of Planning and Research
 - ii. Local Land Use Planning Agencies
- b. Transportation Infrastructure Decision Making
- c. Other Agencies
- d. Tribal Issues
- e. Federal Issues
- f. Statutory Changes
- g. Other Recommendations

VIII. Background Materials and References

Note to Committee #21: The Committee has not discussed the contents of this Section. In order to complete this section, the Committee must outline the nature of the recommendations or observations to be included. Alternatively, the Committee must eliminate those items that cannot be accomplished, or defer them to a separate effort. The Committee should identify a reasonable mechanism to get each of the Appendices reviewed for accuracy and acceptable language. Still needed, as of ~~3/18~~4/21/03.

- a. Appendix A: Responsible Agencies- Federal, State, and Local, Organized by Media
- b. Appendix B: Responsible Agencies Contact List, Organized by County
- c. Appendix C: Cal/EPA Boards, Departments, and Office
- d. Appendix D: Cal/EPA Interagency Working Group
- e. Appendix E: Cal/EPA Actions to Address Environmental Justice
- f. Appendix F: Detailed History of Environmental Justice
- g. Appendix G: Environmental Justice and Tribes
- h. Appendix H: California State Law on Environmental Justice
- i. Appendix I: Complete Summary of Public Participation in Drafting the Committee's Recommendations
- j. Appendix J: References